STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the Petition of DANE COUNTY ATTORNEYS ASSOCIATION To Initiate Mediation-Arbitration Between Said Petitioner and DANE COUNTY	Case LXXXVI No. 29856 MED/ARB-1714 Decision No. 19731-A

Appearances:

Stuart A. Schwartz, John R. Burr, Merrily S. Burch, Attorneys at Law, appearing on behalf of the Association.

Mulcahy & Wherry, S. C., Attorneys at Law, by John T. Coughlin, appearing on behalf of the Employer.

ARBITRATION AWARD:

On August 2, 1982, the Wisconsin Employment Relations Commission appointed the undersigned as Mediator-Arbitrator pursuant to 111.70 (4)(cm) 6.b. of the Municipal Employment Relations Act, in the matter of a dispute existing between Dane County Attorneys Association, referred to herein as the Association, and Dane County, referred to herein as the Employer, with respect to certain issues as specified below. Pursuant to statutory responsibilities, the undersigned conducted mediation proceedings between the Association and the Employer on August 26, 1982, at Madison, Wisconsin. Mediation efforts failed to result in resolution of the dispute, and pursuant to prior notice to the parties, after the parties had executed a waiver of the statutory provisions of 111.70 (4)(cm) 6.c., which require the Arbitrator to provide written notice of his intent to arbitrate, and that the Arbitrator provide the opportunity for each party to withdraw its final offer, the undersigned conducted arbitration proceedings over the issues remaining in dispute between the parties. During the arbitration proceedings the parties were present and given full opportunity to present oral and written evidence and to make relevant argument. The proceedings were transcribed, and briefs were filed in the matter. Briefs were exchanged by the Mediator-Arbitrator on October 29, 1982.

THE ISSUES:

The final offers of the parties include four issues before this Mediator-Arbitrator. They are:

1. Wages: Both parties herein have offered a two year contract which provides for an 8% increase effective 12/27/81 and a 7.5% increase across-the-board effective 12/16/82.

2. Health and Dental Insurance: The County offers the following revised language for defining the County's contribution towards health and dental insurance:

   14.01 Health and Accident Insurance.

   (a) A group hospital, surgical, major medical and dental plan as agreed to by the parties shall be available to employes. In the event that the Employer shall propose a change in this plan, this Contract shall be reopened for purposes of negotiations on such a proposed change (this reopener provision

also applies to the G.H.C. plan specified below). For group health insurance, the Employer agrees shall pay ~~the full premium~~ not to exceed fifty four dollars and four cents ($54.04) per month for employes and ~~ninety percent (90%)~~, not to exceed one hundred forty three dollars and four cents ($143.04) per month for dependents, not to exceed one hundred forty eight dollars and forty five cents ($148.45) for spouse credit per month, not to exceed forty six dollars and seventy five cents ($46.75) for Medicare Plus and not to exceed thirty two dollars and forty two cents ($32.42) for employes age 65 and older who participate in Medicare ("Medical Carve Out"). However, if there is a group health insurance premium increase during the term of this contract which exceeds the above maximum monthly Employer premium contributions, the Employer agrees to adjust upward these maximums to reflect the full cost of such premium increase (this provision also applies to the G.H.C. plan covered below). The Employer shall pay, not to exceed eight dollars and fifty cents ($8.50) per month for single, twenty one dollars and fifty cents ($21.50) per month for family, and twenty two dollars and thirty five cents ($22.35) per month for spouse credit on dental insurance. However, if there is a group dental insurance premium increase during the term of this contract which exceeds the maximum Employer contributions on dental premiums, the Employer agrees to adjust upward these maximums to reflect the full cost of such premium increase.

(b) The Employer agrees that employes and their dependents may elect to become members of the Group Health Cooperative of South Central Wisconsin. There shall, however, be only one (1) thirty (30) day enrollment period per year during which time employes may select G.H.C. or the plan described in (a) above. The Employer agrees to pay toward G.H.C. subscription costs ~~for employes and dependents equal to the dollar amount as determined by the full premium for employes and ninety percent (90%) of dependent premium for the insurance described in (a) above~~. not to exceed the maximum Employer contributions on group health insurance stated in 14.01(a) above.

The County will continue the terms of the 1980-81 contract on its share of group health insurance costs until this impasse is resolved either through mutual agreement or arbitration award.

The Association proposes to retain the current contract language for Health and Accident Insurance.

3. Longevity Credit Accrual and Benefit Payments for Job Sharing Employees: The County would retain the current contractual provisions regarding the accrual of longevity credits and payment of longevity benefits. The Association proposes that Article VIII, Section 8 be changed to read as follows:

> Section 8. Job Sharing. Upon recommendation of department head; employe concurrence and concurrence by the Dane County Personnel Committee, not more than three full-time positions shall be opened to job sharing, on either a 60/40 or 50/50 time basis. In the event one individual holding a job-shared position ceases to be employed by Dane County, the other individual holding such position shall be retained and the vacancy shall be filled through normal Civil Service procedures. Should a job-shared position be vacated by one of its incumbents and the other incumbent becomes full-time, the remaining incumbent shall move on step in the salary schedule as any other full-time employe. (~~step increments reached for each additional 13 longevity credits~~).

Article VIII, Section 2 and Section 2(b) will be changed to read as follows:

> Section 2. Longevity. All regular full-time, ~~and regular part-time~~ and job sharing, employes covered by the terms of this Agreement shall earn longevity credits as follows:
>
> . . .
>
> (b) ~~Regular part-time and~~ Job sharing employes shall receive one half (1/2) a longevity credit for each ~~eighty (80)~~ forty (40) hours of compensated time.

. . .

(The provisions of this change shall be retroactive to December 27, 1981 and shall have no effect on longevity credits earned prior to that time.)

Article VIII, Section 4. entitled Job Sharing will be deleted.

4. Vacation Accrual for Job Sharing Employees: The County proposes to retain the status quo regarding vacation accrual for job sharing employees. The Association proposes to accelerate accrual hours of vacation for job-shared employees as follows:

Article XI, Section 1(g) will be created to read as follows:

For purposes of computing vacation credits under this section, job share employees shall be entitled to one-half (1/2) the hours set forth above for each one-half (1/2) longevity credit earned.

While there are four issues which were disputed between the parties, both party's final offer contains precisely the same provisions with respect to the general wage increase, consequently, no attention to the general increase will be given in this Award, as that matter is no longer disputed between the parties.

DISCUSSION:

Both parties propose to modify the existing terms of the Collective Bargaining Agreement in their final offers. The Employer proposes a modification on health insurance contributions by inserting language that would place dollar cap limits on his contribution to health insurance premiums, while the Association advocates retention of the language which existed in the predecessor Agreement. The Association proposes modifications to methods of accruing longevity credits for job sharing employees and methods for calculating vacation accruals for job sharing employees; while the Employer with respect to these proposals proposes to maintain the language which existed in the predecessor Collective Bargaining Agreement.

While there remain three issues disputed between the parties, it is obvious that the changes to the predecessor Collective Bargaining Agreement proposed by the Association with respect to longevity credit accruals and vacation accruals both pertain to methods of accrual for job sharers and, consequently, the undersigned will treat, for the purposes of this discussion, these two issues as though they were one. Separate discussion will be included with respect to the Employer proposed modifications to health insurance contributions.

The undersigned, in determining which final offer to adopt, is directed by the statutes to consider the criteria contained therein at 111.70 (4)(cm) 7, paragraphs a through h. Therefore, in all of the following discussion the undersigned will consider the evidence adduced at hearing as it pertains to the foregoing criteria.

LONGEVITY AND VACATION ACCRUAL - JOB SHARERS

Under the predecessor Collective Bargaining Agreement, job sharing employees accrued longevity credit pursuant to Article VIII. Section 2(b) of the Agreement, which read: Regular part-time employees shall receive one-half (1/2) a longevity credit for each eighty (80) hours of compensated time. The longevity provision as it applies to full time employees in the predecessor Agreement is found at Article VIII (2) a, which reads: Regular full-time employees shall receive one-half (1/2) a longevity credit for each bi-weekly pay period in which they receive compensation for forty (40) or more hours. The Association here proposes that Article VIII, Section 2 (b) be amended to read: "Job sharing employes shall receive one-half (1/2) a longevity credit for each forty (40) hours of compensated time."

With respect to the vacation accrual, the predecessor Collective Bargaining Agreement at Article XI, Section 1 (f) provided: "Each employe shall be compensated while on vacation at the rate of pay in effect for him at the time vacation credits are used; part-time employes shall earn vacation credits pro rata." Association

here proposes the creation of a new sub-section to Article XI at Section 1 (g) which would read: "For purposes of computing vacation credits under this section, job share employees shall be entitled to one-half (1/2) the hours set forth above for each one-half (1/2) longevity credit earned."

As a result of the foregoing proposals of the Association, the modifications which Association seeks would result in longevity payment being triggered at precisely the same length of employment for job sharers as enjoyed by full time employees, with no proration. Further, the Association proposal would result in attaining the higher successive vacation plateaus after the same length of employment with the Employer. Under the terms of the predecessor Agreement a job sharer, who shared the same position with another employee on a 50/50 basis, would take twice the number of years to reach the applicable longevity and vacation plateaus.

Association urges that its proposal in this matter should be adopted by reason of the equity of the circumstances; and by reason of attaining consistency with respect to longevity accrual compared to eligibility for merit increases which by reason of a prior interest arbitration award are based on time in the position rather than longevity accruals; and, in anticipation of Employer's position, Association argues that job sharers are separate and distinct from part time employees, consequently, any Employer argument that job sharers should be treated the same as other part time employees lacks merit.

Employer argues that internal consistency would compel job sharers to be treated for these purposes the same as other part time employees. Employer further argues that Association has failed to meet its burden of proof in establishing a reasonable need to change the longevity credit for job sharing employees; that a careful examination of both the internal and external comparables establishes a superior position on wage progression in insurance benefits for job sharers; that the expansion of job sharers' benefit accrual is wholly without support in the record.

The record in this matter is undisputed that all part time employees of this Employer pro rate vacation and longevity accrual in the same manner as longevity and vacation accruals have been applied to job sharers covered by the instant dispute. Arbitral authority has placed heavy reliance on internal consistency with respect to fringe benefit applications and maintenance of parity therein among bargaining units of the same Employer. (Madison Metropolitan Sewerage District, Dec. No. 16445 (6/78), City of Oshkosh, Dec. No. 15258 (4/77), Vernon County, Dec. No. 15259 (6/77), Kenosha County, Dec. No. 11632 (8/73), City of Racine, Dec. No. 15001 (1/77), City of Marshfield, Dec. No. 12680 (7/74), City of Waukesha, Dec. No. 15355 (8/77), City of Kenosha, Dec. No. 12500 (6/74), City of Racine, Dec. No. 15492 (5/78), School District of La Crosse, Dec. No. 16327 (9/78), Cooperative Educational Service Agency No. 6, Dec. No. 16279 (12/78), and Wood County, Dec. No. 16388 (8/78).) Furthermore, Arbitrator Zeidler in an interest arbitration involving these same parties (in his award for the 1979-1981 Collective Bargaining Agreement) also relied on these internal consistencies when he found for the Association on a health insurance issue for job shared employees, stating:

> The arbitrator holds then that the Association offer here more nearly conforms to the guidelines of comparability with other employees in the same employing unit, namely Dane County.

Zeidler in the same Award also spoke to internal comparability with respect to the issue of timing of merit increases for job shared employees, when he opined as follows:

> On the basis of comparative conditions both within Dane County and other counties, the County's position is most comparable to others in the prevailing practice.

Zeidler, however, found for the Association by reason of his finding that the Employer's agent at the time of hire had made a commitment to merit increases based on length of time in the job rather than longevity credits, concluding as follows: "The Arbitrator holds that the Association offer in this case is more reasonable despite the lack of comparability."

The undersigned agrees with the principle that internal consistency in matters of the type disputed here (job sharers' accrual of longevity and vacation credits) is the paramount consideration. Therefore, if job sharers are one and the same as part time employees, as the Employer suggests, the Association offer in this matter necessarily must be rejected. On the other hand if job sharers are a distinct and separate entity from part time employees as the Association argues, then the determination with respect to the equities may well be persuasive. It follows from the foregoing, then, that a determination as to whether job sharers are distinguishable and separate entities from part time employees is essential.

The Association bases its argument that job sharers are separate entities and distinguishable from part time employees on the testimony adduced at hearing from Edward Garvoille, Personnel Manager for the Employer, who under cross examination testified as follows (TR. p. 129):

> Q. I believe I just have one last question and that would be: Assuming somebody were hired in the Dane County Attorney's Association at less than full-time but not as a job sharer, what would you classify that person as?
>
> A. Part-timer.
>
> Q. So then there is distinction between part-timers and job sharers?
>
> A. By contract; I can't avoid it.

The Association position with respect to its contention that job sharers are distinguishable from part time employees is typified in the objections of Mr. Burr at hearing to the admission of Employer's Exhibit No. 14, which purports to establish the practices for part time attorneys among the Employer designated comparable employers. At hearing Mr. Burr at TR. 80-81 makes the following statement:

> I have problems with 14 because it deals with part-time employees. The evidence shows there are no part-time attorneys in the Association and the exhibit is not applicable. It has absolutely no value whatsoever. I am taking the caption of that exhibit as part-time attorneys . . . I might point out, the contract it does, in fact, make a distinction between part-timers and job sharers and, in fact, it has separated, so you can't tell us that you don't see a distinction because it's in the contract.

Factually there is no question that the Collective Bargaining Agreement in force between the parties sets forth separate terms for job sharers. The undersigned is not persuaded, however, that the fact there are separate provisions for job sharing employees distinguishes job sharers from part time employees. The terms of the predecessor Collective Bargaining Agreement establish to the satisfaction of the undersigned that a job sharer is an employee who works less than a full time schedule. Consequently, it can be concluded that a job sharer is a part time employee, the primary distinction being that two job sharers work in the same position to fill what would otherwise be one full time position. A part time employee on the other hand is an employee who works less than a full time schedule because the requirements of the employer for said position are less than full time. Consequently, the undersigned concludes from the foregoing that a job sharer is a part time employee, the sole distinction being that a part time job sharer operates with another employee so as to fill one full time position. The foregoing conclusion is buttressed when taking notice of Mediator-Arbitrator Zeidler's Award in the round of bargaining immediately preceding the instant dispute. At page 15 of the Award, Zeidler makes a finding as follows:

> According to Assn. Ex. 3 'Job sharing is generally defined as the division of a full-time position between two or more part-time incumbents. This concept is becoming increasingly popular with employers as a means of effectively meeting certain of their employment needs through tapping a labor market that offers many varied job skills, but which is not available for full-time employment.'

Thus, from the foregoing, it is clear to the undersigned that in the proceedings before Mediator-Arbitrator Zeidler the Association in its Exhibit No. 3 in those proceedings recognized the part time nature of a job sharers position. Given the foregoing recognition by the Association in the proceedings before Mediator-Arbitrator Zeidler, the undersigned can only conclude that the Association also recognizes that job sharers are part time employees. Their own exhibit in those proceedings so states.

Having concluded that job sharers and part time employees are one and the same; and because the unequivocal evidence in this record establishes that part timers accrue longevity and vacation credits in the same manner as advocated by the Employer in this dispute; the undersigned now concludes that the Association has failed to make a case for the change it advocates with respect to job sharers. Consequently, the Association position with respect to job sharers is rejected, and the undersigned concludes that the language of the predecessor Agreement should continue to apply to job sharers for longevity and vacation accrual purposes.

HEALTH INSURANCE CONTRIBUTION ISSUE

The terms of the predecessor Collective Bargaining Agreement which the Employer offer proposes to amend are found at Article XIV, Section 1 (a) and (b). In the predecessor Collective Bargaining Agreement the provision calls for an Employer contribution of 90% of the dependent cost of the health insurance and all of the employee's share of said premium. With respect to dental the predecessor Agreement has a dollar cap of $17.90 per month for family and $7.10 per month for single, and also provides that the Employer will pay any additional premium cost in the event of an increase in 1981 not to exceed full cost for employees and 90% of premium for dependents in 1981. The Employer here seeks to modify the 90% language of the predecessor Agreement by placing dollar caps in the Agreement which are presently equal to 90% of the premium now in force for dependents. The Employer further commits that during the term of this Agreement he will pick up 100% of any premium increases which may occur.

Association opposes the change, arguing that the Employer's language in its final offer is confusing, in that the Employer's final offer purports to amend a paragraph of the predecessor Agreement that does not exist; that it purports to delete existing wording that does not exist; and that it purports to retain language that is presently not in the predecessor Agreement. The Association further argues that the Employer's language is more costly than the existing language, and that the Employer's proposed language in this matter cannot be found among comparables in other counties, whereas, the retention of the existing language is more comparable to practices in other counties.

The Employer argues that the preponderance of the evidence supports the Employer offer on the issue of health insurance payments because 1) the total cost of the benefits paid by the Employer here compared to comparable employers, and in comparison to increases in the CPI, support the Employer's proposal; 2) Employer offer may increase Employer contribution to insurances to over 90% over the term of the Contract; 3) the Employer health insurance benefits are superior to those afforded by comparable employers;4) cost containment can better be achieved over a period of time through employee participation in premium increases; 5) the total fringe benefit compensation of the Association members supports the Employer's offer on the health insurance issue.

The record reflects that there are no internal comparables available with respect to this issue. The record establishes that all represented bargaining units are at impasse for the 1982-83 contract term with respect to this same proposal on health and dental insurance premium participation as that made by the Employer in the instant impasse. Consequently, internal comparables are not available and cannot be determinative in resolving this disputed issue.

With respect to the Association argument that the Employer's final offer purports to amend a paragraph of the predecessor Agreement that does not exist, and that it deletes existing words that do not exist, and that it purports to retain

language that is presently not in the Contract, the undersigned concludes that said argument is without merit. The Association at page 22 of its brief argues that:

> It is actually impossible to implement the proposed wording of the County's final offer as indicated by the County in their final offer. It is probable, in all actuality, that the County has submitted language from another contract; however, this is their final offer and they must be held responsible for it as neither the arbitrator nor the Association should be required to guess as to what the County intended.

The undersigned has carefully reviewed the language of the Employer final offer with the language of Article XIV of the predecessor Collective Bargaining Agreement as the Association has urged. As the Association argues, the predecessor Collective Bargaining Agreement does not contain a section designated as Section 14.01, but rather contains under Article XIV subheading section 1, followed by subparagraphs (a) and (b). Thus, the Employer offer has misnumbered the references in Article XIV which he proposes to amend with respect to health insurance premium participation on the part of the Employer. The undersigned, however, concludes that the misnumbering in the Employer final offer is a ministerial error and, therefore, is one that can be easily corrected by the parties in the event the Employer final offer is adopted. The undersigned further concludes that it is immaterial to the resolution of this dispute that the Employer final offer appears to delete words that do not exist in the predecessor Agreement and appears to retain words that do not exist in the predecessor Agreement. The form of the final offer does have strike outs and underlining which could be interpreted to signify language which is new and language which is deleted and language which is retained from the predecessor Agreement. In all probability the Association is correct when it surmises that the Employer has submitted language from another contract for inclusion in this Collective Bargaining Agreement. Notwithstanding the foregoing, a reading of the Employer final offer satisfies the undersigned that the meaning of the final offer is clear on its face. Furthermore, it is equally clear to the undersigned that the Employer's intent of his final offer is to substitute his proposed language for the language in the predecessor Agreement found at Article XIV, Section 1 (a) and (b). The undersigned disagrees with the Association that the language is impossible to implement, and that the Employer proposal requires the Arbitrator and the Association to guess as to what the Employer intended. As concluded above, the language is clear and the meaning and intent of the language is clear, consequently, if the Employer final offer is adopted neither the Arbitrator nor the Association will have difficulty in determining the meaning of the proposal.

The Association argues that the language proposed by the Employer here is unique among the external comparables. The undersigned agrees. There is no evidence in this record that comparable counties have language of the type which the Employer is proposing here. Consequently, when considering external comparables, the retention of the language from the predecessor Agreement is preferred.

The undersigned is satisfied that the primary Employer motivation for its proposal on sharing health insurance premiums is the conviction that cost containment can better be achieved over a period of time through employee participation in premium increases. The Employer makes the foregoing argument based on evidence adduced at hearing. At hearing the Employer introduced Employer Exhibits Nos. 1, 2 and 3. Employer Exhibit No. 1 is a summary of the Rand Health Insurance Study by Joseph P. Newhouse. Employer Exhibit No. 2 is Health Planning Update, September/October, 1981, Vol. 10, No. 5. Employer Exhibit No. 3 is an article from The New England Journal of Medicine (Vol. 305, No. 25, December 17, 1981). Additionally, Employer adduced testimony from its risk insurance manager, Robert G. Tieman, who testified as to his opinion that:

> When people are afforded with paying a greater share of that premium their awareness is greater, therefore, they tend to, or should tend to, be more concerned and it should help to stabilize those increases. These are what the studies have shown and have been in effect.

Finally, Employer relies on his citation of a prior interest arbitration award, Lincoln County Sheriff's Department, Dec. No. 17068 (11/79), by Arbitrator David

Johnson, who held:

> On the issue of the percentage of health insurance premiums to be paid by the County, I am inclined to the view that employees ought to maintain some direct interest in these costs by paying a portion of the premium. I am not at all certain that 10% is sufficient to get their attention, and I am not so sure that the 90% figure should be made a part of the agreement of the parties in future years.

The undersigned has carefully reviewed Employer Exhibits Nos. 1, 2 and 3 which speak to sharing of hospitalization and medical costs. Significantly, the exhibits deal with studies on deductibles and co-insurance, and the undersigned finds no reference to participation in premium sharing in those exhibits. Employer Exhibits Nos. 1 through 3 clearly establish that hospital utilization rates diminish when either deductibles or co-insurances are involved in the scope of the coverages which establish the type of services to be paid by the insurance carrier. There is, however, no correlation in the articles to premium participation on the part of the employees. The undersigned, therefore, concludes that the testimony of Robert Tieman is his own personal opinion when he states that premium participation would result in a more favorable experience in health insurance utilization on the part of employees. In his testimony, Tieman testifies that studies have shown premium participation has a salutory effect on experience, however, there are no studies in this record to support Mr. Tieman's opinion. Absent evidentiary studies supporting his opinion, the undersigned concludes that the individual opinion of the Risk Manager of the Employer tends to be both self serving in nature in support of the final offer of the Employer, and of insufficient weight so as to make it persuasive.

The undersigned has considered the opinion of Arbitrator Johnson in Lincoln County Sheriff's Department which has been cited by Employer in this matter. In his opinion Arbitrator Johnson states that employees ought to maintain some direct interest in health insurance premium costs by paying a portion of the premium, and that he was not sure that 10% participation was sufficient to get the employees' attention. After due consideration, the undersigned concludes that the foregoing opinion is uninstructive to the present Mediator-Arbitrator because the issues here are different than the issue to which Arbitrator Johnson spoke. For the term of this Agreement, if the Employer's proposal is accepted, the Collective Bargaining Agreement will not establish greater premium participation on the part of employees. To the contrary, there is a prospect that less premium participation will be required under the terms of the Employer proposal than under the predecessor Agreement, because Employer here agrees to pick up all premium increases which may occur during the term of the Collective Bargaining Agreement. Since the dollar caps, which are proposed by the Employer in its final offer, now equal the present value of 90% of the premium, any pick up of additional premium increases during the term of the Collective Bargaining Agreement will result in less employee participation in premiums for health insurance than the predecessor Agreement required. Consequently, the undersigned concludes that Johnson's dicta is inapposite to the instant dispute. Therefore, the undersigned now concludes that the Employer has failed to establish sufficient proof to support its offer as it goes to the modification of the terms of health insurance contributions.

By way of comment, the Mediator-Arbitrator notes that both parties make argument with respect to the potential increase of Employer contribution, both arguing that it supports their respective final offers on this issue. Association argues that their proposal is the more reasonable because potentially it has less cost to the Employer. The Employer argues that his offer is more reasonable because it affords better premium participation by the Employer and, therefore, is more advantageous to bargaining unit members. With respect to the foregoing, the undersigned is persuaded that the Employer argument is the more persuasive.

From all of the foregoing, then, the undersigned concludes that the Employer has failed to establish sufficient proof that the change he proposes with respect to health insurance premium participation should be adopted. Therefore, with respect to this issue the Mediator-Arbitrator finds for the Association final offer.

SUMMARY AND CONCLUSIONS:

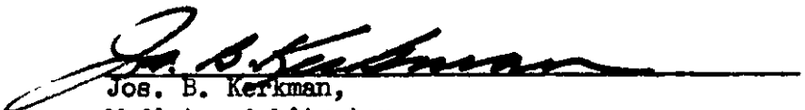
The undersigned has concluded that the Association offer with respect to longevity and vacation accruals for job sharers is unsupported by the record; and the undersigned further has concluded that the Employer final offer with respect to modification of health insurance premium sharing is unsupported by the record. The Mediator-Arbitrator is now required to determine which party's final offer in its entirety is to be adopted, because the statutes which confer jurisdiction upon the Mediator-Arbitrator require that he select the total final offer of either one party or the other. To select for the Association final offer would establish longevity and vacation accruals for job sharers in this unit of a preferential nature when compared to any other part time employees of the Employer. The undersigned concludes that this should be avoided. On the other hand, there is the potential that selecting the final offer of the Employer would establish premium participation for health insurance purposes separate and distinct for employees contained in this bargaining unit when compared to all other bargaining unit employees in the employ of this same Employer. At the time of this Award the undersigned has no knowledge as to how the other bargaining units who have proceeded to mediation-arbitration with other mediator-arbitrators have fared on the health insurance issue. Consequently, if other arbitrators have held for the Association position in those matters, adopting the Employer final offer here would establish terms for premium participation for health insurance separate and distinct from all other bargaining unit employees of this same Employer. After lengthy consideration of all of the foregoing, the undersigned concludes that the final offer of the Employer should be adopted in this matter. The foregoing conclusion is reached for two reasons. First, to find for the Association would definitely establish preferential vacation and longevity accruals for job sharers as compared to other part time employees of the Employer; while finding for the Employer may or may not establish different terms for health insurance premium participation. Since the former circumstance is definite, whereas the latter circumstance is only a possibility, the undersigned concludes that the avoidance of the definite and certain favorable treatment for part time employees should be avoided. Second, the fact that employees within this bargaining unit have the potential to fare better economically under the Employer offer by reason of the Employer's commitment to pick up any health insurance increases during the term of this Agreement, sways the undersigned toward the adoption of the Employer offer.

Therefore, based on the record in its entirety and the discussion set forth above, and after considering the argument of counsel and the statutory criteria found at 111.70 (4)(cm) 7, the Mediator-Arbitrator makes the following:

AWARD

The final offer of the Employer, along with the stipulations of the parties, as well as the terms of the predecessor Collective Bargaining Agreement, which remained unchanged through the bargaining process, are to be incorporated into the written Collective Bargaining Agreement of the parties.

Dated at Fond du Lac, Wisconsin, this 17th day of February, 1983.



Jos. B. Kerkman,
Mediator-Arbitrator

JBK:rr